

**UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF NEW YORK**

LACKAWANNA CHIROPRACTIC P.C., a
New York professional corporation,
individually and on behalf of all others
similarly situated,

Plaintiff,

v.

TIVITY HEALTH SUPPORT, LLC, a
Delaware limited liability company,

Defendant.

Case No. 1:18-cv-00649-LJV

CLASS ACTION

**PLAINTIFF’S NOTICE OF MOTION
FOR PRELIMINARY APPROVAL OF MODIFIED CLASS ACTION SETTLEMENT**

Plaintiff Lackawanna Chiropractic P.C., on behalf of itself and a settlement class of similarly situated persons, respectfully provides notice of motion and moves for entry of an order granting preliminary approval of the modified class action settlement set forth in the Parties’ Settlement Agreement (“Settlement Agreement” or “Agreement”), certifying a class for settlement purposes, and providing for issuance of Notice to the Settlement Class. If approved, the Settlement will bring an end to what has otherwise been, and likely would continue to be, contentious litigation centered on unsettled legal questions.

The motion and memorandum of law seek the entry of an order providing for:

1. Preliminary approval of the Settlement;
2. Provisional certification of the Settlement Class pursuant to Federal Rule of Civil Procedure 23(b)(3) and (e) for settlement purposes only and appointment of the Plaintiff as Class Representative and Plaintiff’s counsel as Class Counsel;
3. Approval of the Settlement Administrator;

4. Approval of the form and content of the Notice program describing:
 - a. The Settlement and the Settlement Class members' rights with respect to the Settlement;
 - b. The proposed Release of claims;
 - c. Class Counsel's request for attorneys' fees and expenses, and a Service Award for the Class Representative; and
 - d. The procedure for opting-out of or objecting to the Settlement.
5. Approval of the Claims process;
6. Re-opening and staying the Action pending Final Approval of the Settlement; and
7. Scheduling of a Final Approval Hearing to consider Final Approval of the Settlement.

Respectfully submitted,

Dated: March 6, 2020

/s/ Stefan Coleman

Stefan Coleman (SC6365)

law@stefancoleman.com

Law Offices of Stefan Coleman, P.A.

5 Penn Plaza, 23rd Floor

New York, NY 10001

Telephone: (877) 333-9427

Facsimile: (888) 498-8946

Avi R. Kaufman (admitted pro hac vice)

KAUFMAN P.A.

400 NW 26TH Street

Miami, Florida 33127

Telephone: (305) 469-5881

Email: kaufman@kaufmanpa.com

Attorneys for Plaintiff and the Settlement Class

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on March 6, 2020, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF, which is being served this day on all counsel of record via transmission of Notice of Electronic Filing generated by CM/ECF.

/s/ Stefan Coleman